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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,944	11/29/2001	David C. Kramlich	810.528US01	5775

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EXAMINER

MAPLES, JOHN S

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/997,944	Applicant(s) KRAMLICH ET AL.	
	Examiner John S. Maples	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 ~~is~~ are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-48 ~~is~~ are allowed.
- 6) ☒ Claim(s) 1,4-8,10,12,13,19,20,23 and 24 ~~is~~ are rejected.
- 7) ☒ Claim(s) 2,3,9,11,14-18,21,22 and 25 ~~is~~ are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-8, 10, 12, 13, 19, 20, 23, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dasgupta et al.-US 5,498,498 (Dasgupta).

Reference is made to Figure 1 of Dasgupta along with column 4, line 13-column 5, line 10; column 6, line 12 through column 7, line 30. See also Example 2 in Dasgupta where the electrode plates are recited as being 0.95 inches square.

Applicant's arguments have all been considered but are not deemed persuasive. Applicant argues that Dasgupta fails to teach discontinuous cathode sheets each comprising a cathode layer and a current layer as set forth in claim 1 of the present application. The examiner respectfully disagrees. Figure 1 of Dasgupta depicts a thin-film cell having multiple cathodes 4 that are separated from one another with gaps there between and are thus discontinuous as applicant has claimed. This figure also shows a current collector 6 that contacts a first surface of each of the cathodes and an electrolyte 8 that contacts a second surface of each of the cathodes. This electrolyte 8 extends across the gaps formed between the multiple cathodes as seen in Figure 1. Thus applicant's argument has been traversed. It is noted that applicant never argued the configuration of the battery as shown in Figure 1 with regard to the claimed subject matter.

Applicant states that Dasgupta discloses elongated tabs of metallic foil placed between sections of the cell stack for current collection. This may be true, however this does not relate to the claimed subject matter.

A further argument by applicant is that Dasgupta fails to disclose current collector layers of adjacent cathode sheets separated by a gap as claimed in claim 1. Again, reference is made to Figure 1 of Dasgupta for the current collector 6 that contacts the discontinuous cathodes 4 separated by a gap.

Applicant further argues that the laminates 2 and 6 are not discontinuous structures. This is true, however, applicant has not claimed in the current claims of record that the current collectors are discontinuous structures. Applicant has only claimed that the cathodes are discontinuous-see lines 2-3 of claim 1.

Finally, applicant states that Dasgupta fails to describe each and every element as set forth in claim 1 and so a rejection based on 35 USC 102(b) cannot be maintained. Again, the examiner respectfully disagrees. The third paragraph in section 2 of this action points out where each of the claimed elements recited in claim 1 are found in the teachings of Dasgupta. Thus Dasgupta meets the claimed subject matter of claim 1.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday through Thursday from 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or preceeding is assigned is 703-872-9310.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John S. Maples

Primary Examiner

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JSM/5-17-2004